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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,  
Plaintiff,

vs.

Jesus Gonzalez Arellano,  
Defendant.

CR16-01749-TUC-RM (LAB)

SENTENCING MEMORANDUM

Plaintiff, United States of America, by and through its attorney undersigned, hereby takes the following positions in anticipation of the sentencing on this matter:

**(1) Factual Correction:**

The government has no factual corrections or legal objections to the PSR.

**(2) Defendant's Compliance With the Plea Agreement:**

Paragraph 8 of the plea agreement states: "The defendant also agrees that his employment with HSI-ICE will conclude, either by retirement or resignation by the time of sentencing." That has not been accomplished as of yet, but defense counsel has represented that it will be done by the time of sentencing.

Paragraph 13 of the plea agreement states: "The defendant understands and agrees to cooperate fully with the United States Probation Office in providing . . . (b) all financial information, i.e., present financial assets or liabilities that relate to the ability of the defendant to pay a fine or restitution." Paragraphs 55-60 of the Final Pre-Sentence Report

1 indicate that the defendant did not comply with this provision. The government has spoken  
 2 to defense counsel regarding this matter. Defense counsel represented that the defendant's  
 3 personal record keeping was spotty, but that all available records were provided to  
 4 probation and that defense counsel's fee was paid out of the TSP loan.

5 Assuming, the defendant does resign or retire prior to sentencing, the government  
 6 will not seek to withdraw from the plea agreement.

7 **(3) Harm to the United States:**

8 The damage inflicted by the defendant in this matter is hard to quantify because the  
 9 things damaged (trust and confidence, etc.) are largely intangible. While investigating this  
 10 case the government has pursued answers to the following questions:

- 11 ■ First, were there any court cases that were materially affected by the false  
 12 identification of the source?
- 13 ■ Second, were there any investigations that were materially affected by the  
 14 information contained in the false document?
- 15 • Third, are there any potential future harms to law enforcement efforts?
- 16 • Fourth, are there any law enforcement systems that were damaged by the  
 17 defendant's conduct?

18 The answers appear to be, in order, no, yes, yes, and yes.

19 First, the government reviewed all cases linked to the source of information (SOI)  
 20 at issue to determine if the false identifying information was advanced in court or in legal  
 21 process such as a warrant. The government could find several cases linked to the SOI, but  
 22 could not find any instances where the false identity was advanced in a court setting.  
 23 Additionally, the information attributed to the SOI appears to have been truthful (as related  
 24 to those other cases). The obvious limitation on this inquiry is that informal uses (such as  
 25 oral *in camera* discussions) are inherently hard to investigate.

26 Second, the false report contained derogatory information about another individual,  
 27 which in turn, affected the government's evaluation of that person's ability to be truthful  
 28 and reliable if called as a witness. The best-case scenario for the defendant is he advanced

1 truthful information in a report that contained other material intentional falsities about the  
2 SOI's identifying information. Obviously, the problem there is the government now has  
3 derogatory information that is itself facially unreliable due to the defendant's lie. This  
4 creates a host of reliability and disclosure issues.

5 Third, the defendant was an active special agent with Homeland Security  
6 Investigations. Given the nature of this conviction, any part of any investigation that he  
7 touched is now potentially vulnerable to challenge. This harm is somewhat mitigated  
8 because of the time required to resolve this case, paired with general statute of limitations  
9 has forced these potential issues to either be realized or nullified.

10 Fourth, the confidential source system is an incredibly valuable law enforcement  
11 tool that seeks to balance both the government's ability to protect individuals who  
12 cooperate with the authorities and the government's obligations to the court and the  
13 accused in regard to matters that may be relevant to credibility. The government has long  
14 been successful in limiting unnecessary exposure of that information, in large part, based  
15 on a reservoir of trust by the courts that the government will be an effective steward of that  
16 information and will provide all pertinent information as required. The defendant's actions  
17 undermine that trust as they demonstrate the capabilities of a bad actor.

18 **(4) Mitigating Circumstance:**

19 The mitigating factors raised by the defendant were generally known to the  
20 government and have been largely taken into account when crafting the plea in this matter.

21 **(5) Government Recommendation**

22 This was a serious breach of trust that had hard to quantify damage, but because of  
23 the particulars of this case (and the defendant), the government was willing to enter into  
24 the accepted agreement. As of now, the defendant has not complied with his obligations  
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1 under the plea, however assuming that changes, the government will agree with the  
2 probation recommendation.

3 Respectfully submitted this 7th day of February, 2019.

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5 ELIZABETH A. STRANGE  
First Assistant United States Attorney  
6 District of Arizona

7 *s/ Gordon E. Davenport, III*

8 GORDON E. DAVENPORT, III  
Assistant U.S. Attorney

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10 Copy of the foregoing served electronically  
or by other means this 7th day of February,  
11 2019, to:

12 Sean C. Chapman, Esq.  
Attorney for defendant  
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